

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1113

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-13-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) The DNA sample processing fund is established for the purpose of funding the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under this chapter. The fund shall be administered by the superintendent.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 2. IC 33-34-8-1, AS AMENDED BY P.L.85-2004, SECTION 15, AND AS AMENDED BY P.L.95-2004, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. (a) The following fees and costs apply to cases in the small claims court:**

(1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

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- (2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-37-5-20.
- (7) An automated record keeping fee under IC 33-37-5-21.
- (8) A late fee, if any, under IC 33-37-5-22.
- (9) *A ~~judicial~~ public defense administration fee under IC 33-37-5-21.2.*
- ~~(9)~~ **(10) A judicial insurance adjustment fee under IC 33-37-5-25.**
- (11) A judicial salaries fee under IC 33-37-5-26.**
- (12) A court administration fee under IC 33-37-5-27.**

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 3. IC 33-34-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ County Small Claims Court _____ Division (with the name of the county and township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

- (1) semiannually distribute to the auditor of state:
 - (A) all automated record keeping fees (**IC 33-37-5-21**) received by the court for deposit in the state user fee fund established under IC 33-37-9;
 - (B) **all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;**
 - (C) **all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;**
 - (D) **all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial**

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branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The county auditor shall deposit fees distributed under ~~this~~ subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

SECTION 4. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) *A ~~judicial~~ public defense administration fee under (IC 33-37-5-21.2).*
- ~~(15)~~ (16) *A judicial insurance adjustment fee under (IC 33-37-5-25).*

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(17) A judicial salaries fee (IC 33-37-5-26).

(18) A court administration fee (IC 33-37-5-27).

(19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 5. IC 33-37-4-2, AS AMENDED BY P.L.85-2004, SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (~~IC 33-19-6-17~~) (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A *judicial public defense administration fee under* (IC 33-37-5-21.2).
- ~~(12)~~ (12) A *judicial insurance adjustment fee under* (IC 33-37-5-25).
- (13) A **judicial salaries fee (IC 33-37-5-26).**
- (14) A **court administration fee (IC 33-37-5-27).**
- (15) A **DNA sample processing fee (IC 33-37-5-26.2).**

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

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(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars (\$52); and

(2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 6. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

(1) IC 31-34 (children in need of services).

(2) IC 31-37 (delinquent children).

(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(6) A document storage fee (IC 33-37-5-20).

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- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) ~~A *judicial* public defense administration fee under (IC 33-37-5-21.2).~~
- ~~(9) (10) A judicial insurance adjustment fee under (IC 33-37-5-25).~~
- (11) A judicial salaries fee (IC 33-37-5-26).**
- (12) A court administration fee (IC 33-37-5-27).**
- (13) A DNA sample processing fee (IC 33-37-5-26.2).**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.85-2004, SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) ~~A *judicial* public defense administration fee under~~

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(IC 33-37-5-21.2).

~~(5) A judicial insurance adjustment fee under (IC 33-37-5-25).~~

(7) A judicial salaries fee (IC 33-37-5-26).

(8) A court administration fee (IC 33-37-5-27).

(9) A service fee (IC 33-37-5-28).

SECTION 8. IC 33-37-4-6, AS AMENDED BY P.L.85-2004, SECTION 21, AND AS AMENDED BY P.L.95-2004, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) ~~A small claims costs fee of thirty-five dollars (\$35).~~

(2) ~~A small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.~~

(1) From the party filing the action:

(A) a small claims costs fee of thirty-five dollars (\$35); and

(B) a small claims service fee of ten dollars (\$10) for each named defendant.

(2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

~~(4) A judicial public defense administration fee under (IC 33-37-5-21.2).~~

~~(4) (5) A judicial insurance adjustment fee under (IC 33-37-5-25).~~

(6) A judicial salaries fee (IC 33-37-5-26).

(7) A court administration fee (IC 33-37-5-27).

~~(c) This section applies after June 30, 2005.~~

SECTION 9. IC 33-37-4-7, AS AMENDED BY P.L.85-2004, SECTION 22, AND AS AMENDED BY P.L.95-2004, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action

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filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) ~~A judicial public defense administration fee under (IC 33-37-5-21.2).~~
- ~~(4) (5) A judicial insurance adjustment fee under (IC 33-37-5-25).~~
- (6) A judicial salaries fee (IC 33-37-5-26).**
- (7) A court administration fee (IC 33-37-5-27).**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 10. IC 33-37-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of **fifty one hundred twenty** dollars ~~(\$50)~~ **(\$120)** for court costs.

SECTION 11. IC 33-37-5-21.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.2. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding for an infraction violation.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 **and in each small claims action in a court described in IC 33-34**, the clerk shall collect a **judicial public defense** administration fee of ~~in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two three dollars (\$2); (\$3).~~

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(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a ~~judicial~~ **public defense** administration fee of ~~in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two~~ **three** dollars ~~(\$2): (\$3).~~

SECTION 12. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.
- (2) A proceeding for an infraction violation.
- (3) A proceeding for an ordinance violation.
- (4) A small claims action.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a ~~judicial~~ **salaries** fee equal to the amount specified in the schedule in subsection (d).

(b) In each small claims action filed in a court described in IC 33-37-1-1 or IC 33-34, the clerk shall collect a ~~judicial~~ **salaries** fee specified in the schedule in subsection (e).

(c) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a ~~judicial~~ **salaries** fee specified in the schedule in subsection (d).

(d) Beginning:

- (1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the ~~judicial~~ **salaries** fee to which this subsection applies is fifteen dollars (\$15);
- (2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the ~~judicial~~ **salaries** fee to which this subsection applies is sixteen dollars (\$16);
- (3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and

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ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is seventeen dollars (\$17);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eighteen dollars (\$18);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is nineteen dollars (\$19); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twenty dollars (\$20).

(e) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is ten dollars (\$10);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eleven dollars (\$11);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twelve dollars (\$12);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is

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thirteen dollars (\$13);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fourteen dollars (\$14); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars (\$15).

SECTION 13. IC 33-37-5-26.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26.2. In each action in which a person is:**

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a DNA sample processing fee of one dollar (\$1).

SECTION 14. IC 33-37-5-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.
- (2) A proceeding to enforce a statute defining an infraction.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a court administration fee of two dollars (\$2).

SECTION 15. IC 33-37-5-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. (a) Except as provided in subsection (c), this section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).**

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(b) The clerk shall collect the following:

(1) From the party filing the civil action, a service fee of ten dollars (\$10) for each additional defendant named other than the first named defendant.

(2) From any party adding a defendant, a service fee of ten dollars (\$10) for each defendant added in the civil action.

(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13.

SECTION 16. IC 33-37-7-2, AS AMENDED BY P.L.85-2004, SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) ~~IC 33-37-4-6(a)(1)~~ **IC 33-37-4-6(a)(1)(A)** (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

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(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

- (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.
- (2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.
- (2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

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The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under **IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2)** for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the ~~judicial~~ following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

~~(j)~~ (j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(j)~~ This section applies after June 30, 2005.

(k) The proceeds of the service fee collected under IC 33-37-5-28 shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 17. IC 33-37-7-8, AS AMENDED BY P.L.85-2004, SECTION 27, AND AS AMENDED BY P.L.95-2004, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).



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- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) ~~IC 33-37-4-6(a)(1)~~ **IC 33-37-4-6(a)(1)(A)** (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) ~~IC 33-37-4-6(a)(1)~~ **IC 33-37-4-6(a)(1)(A)** (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) ~~IC 33-37-4-6(a)(1)~~ **IC 33-37-4-6(a)(1)(A)** (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under

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IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the **following:**

(1) **The late payment fees collected under IC 33-37-5-22.**

(2) **The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).**

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) *The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the ~~judicial~~ following:*

(1) **The public defense administration fee collected under IC 33-37-5-21.2.**

(2) **The DNA sample processing fees collected under IC 33-37-5-26.2.**

(3) **The court administration fees collected under IC 33-37-5-27.**

~~(g)~~ (h) *The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.*

~~(h)~~ This section applies after June 30, 2005.

(i) **The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 as the city or town share.**

SECTION 18. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~six seven million seven nine hundred four~~ **thirty-two** thousand two hundred ~~fifty-seven~~ **nine** dollars ~~(\$6,704,257)~~

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(\$7,932,209) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~eleven nine and eight-hundredths~~ **thirty-seven hundredths** percent (~~11.08%~~; **9.37%**);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five thirty-two and twenty-one fifty-three~~ hundredths percent (~~25.21%~~; **32.53%**);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to ~~three two and fifty-two~~ **ninety-eight** hundredths percent (~~3.52%~~; **2.98%**);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen twelve and nineteen-hundredths~~ percent (~~14.19%~~; **12%**);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen thirteen and fifty-hundredths~~ **ninety-five hundredths** percent (~~16.50%~~; **13.95%**);

(6) the motor vehicle highway account an amount equal to ~~twenty-six twenty-two and ninety-five~~ **seventy-eight** hundredths percent (~~26.95%~~; **22.78%**);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two hundredths~~ **twenty-eight hundredths** of one percent (~~0.32%~~; **0.28%**); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to ~~two one and twenty-three~~ **eighty-nine** hundredths percent (~~2.23%~~; **1.89%**); and

(9) the **DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to four and twenty-two hundredths percent (4.22%);**

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

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(2) after June 30, 2005, two million ~~two~~ seven hundred thousand dollars (~~\$2,200,000~~): **(\$2,700,000)**.

SECTION 19. IC 33-37-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a)** Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be used only for the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 20. IC 33-37-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** Upon receipt of

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monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be used only for the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 21. IC 33-39-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier

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Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

- (1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or**
- (2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:**

(A) intoxication; or

(B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

~~(b)~~ **(c)** A prosecuting attorney may withhold prosecution against an accused person if:

- (1) the person is charged with a misdemeanor;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; ~~and~~
- (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; **and**
- (4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.**

~~(c)~~ **(d)** An agreement under subsection ~~(b)~~ **(c)** may include conditions that the person:

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;
- (3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;
- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;
- (7) report to the prosecuting attorney at reasonable times;
- (8) answer all reasonable inquiries by the prosecuting attorney

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and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

~~(d)~~ (e) An agreement under subsection ~~(b)(2)~~ (c)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

~~(e)~~ (f) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

~~(f)~~ (g) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

~~(g)~~ (h) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection ~~(c)(6)~~ (d)(6):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 22. IC 33-39-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The council shall do the following:

- (1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.
- (2) Prepare manuals of procedure.
- (3) Give assistance in preparation of the trial briefs, forms, and instructions.
- (4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.
- (5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

SECTION 23. IC 34-26-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. Fees for:

- (1) filing;
- (2) service of process;
- (3) witnesses; or
- (4) subpoenas;

may not be charged for a proceeding seeking relief or enforcement as

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provided in this chapter, **including a proceeding concerning a foreign protection order as described in section 17 of this chapter.** This section may not be construed to prevent the collecting of costs from a party against whom an order for protection is sought if the court finds a claim to be meritorious and issues an order for protection under this chapter.

SECTION 24. IC 34-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2005]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

- (1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and
- (2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) **This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle.** The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

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(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay ~~court costs~~ a fee of ~~twenty-five~~ **seventy** dollars ~~(\$25)~~ **(\$70)** to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); ~~and~~

(5) the agreement is filed in the court in which the action is brought; **and**

(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

SECTION 25. [EFFECTIVE JULY 1, 2005] Notwithstanding IC 33-39-1-8 and IC 34-28-5-1, both as amended by this act, a prosecuting attorney is not required to electronically transmit information to the prosecuting attorneys council under IC 33-39-1-8 when withholding prosecution or under IC 34-28-5-1 when deferring action until January 1, 2006.

SECTION 26. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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HEA 1113 — Concur+

